

### REMARKS

The issues outstanding in the Office Action mailed October 4, 2002, are the objection to the drawings, the objection to the claims and the rejections under 35 U.S.C. §§112, 102 and 103. Reconsideration of these issues, in view of the following discussion, is respectfully requested.

#### Drawings

The Examiner is thanked for pointing out the failure of the drawings to reference numeral (1). A proposed drawing correction, indicating the correction in red, is attached.

#### Claim Objections

The Examiner is also thanked for indicating a grammatical error in claim 18. A minor clarifying amendment has been made, and withdrawal of the objection is respectfully requested.

#### Rejections Under 35 U.S.C. §112

The Examiner's careful reading of the claims is appreciated. The majority of issues raised at pages 2-4 of the Office Action has been obviated by minor clarifying amendments, which do not change the scope of the claims, either literally or for purposes of the doctrine of equivalents.

With respect to item 7, at page 3 of the Office Action, claim 20 has been objected to as reciting a binder comprising three components in which component B could read on component C. It is respectfully submitted that such double inclusion of an element does not, in and of itself, form a basis for objection to the claims. See, for example, MPEP §2173.05(h). In any event, a

minor clarifying amendment has been made, and it is submitted that this issue is moot.

#### Rejections Under 35 U.S.C. §102

Claims 16-17 and 20 have been rejected under 35 U.S.C. §102(b) over JP '243.

Reconsideration of this rejection is respectfully requested. It is submitted that the Japanese application does not disclose a construction in which a multi-layered structure is peelable in a polypropylene binder layer, so that the binder layer adheres to a metal or metallized layer, and separates from a polypropylene layer. See, for examples, Applicants' Figs. 2a and 2b. Indeed, it is noted that claim 18, reciting such a structure, was not subjected to this rejection. Accordingly, it is submitted that the JP fails to disclose the claimed layered structure, and withdrawal of this rejection is respectfully requested.

Claims 16-19 have been rejected under 35 U.S.C. §102(b) over Hirota et al. '710.

Reconsideration of this rejection is also respectfully requested.

As noted at page 5 of the Office Action, Hirota teaches an openable heat sealed lid, comprising a metal foil resin film laminate, and a polypropylene inner resin film. However, Hirota uses a polypropylene adhesive resin to keep together the metal foil and polypropylene film, in a non-delaminable orientation. See patentees' discussion at col. 3, line 53 through col. 4, line 18, where it is indicated that delamination "should be prevented between the metal foil and resin film when the laminate is torn along the underlying . . .". (Emphasis added.) It can be seen that Hirota refers to a construction wherein the peel-seal layer is essentially broken along a score line, and is not peeled such that the binder layer separates from the polypropylene film. Rather, in the patent, the entire construction breaks along the score line and remains together. Thus, it is

submitted that patentees fail to disclose the presently claimed construction and withdrawal of the rejection is respectfully requested.

Claims 27-30 have also been rejected under 35 U.S.C. §102(b) over Hirota, as above. In view of the foregoing discussion, it is submitted that this rejection should also be withdrawn.

Claims 16-18 and 27-30 have been rejected under 35 U.S.C. §102(b) over Trouilhet '973. Reconsideration of this rejection is also respectfully requested. Similarly to Hirota, Trouilhet employs a tie layer which may be a polyolefin in order to keep together a "peel and seal" layer, which may also be a polyolefin, and a foil layer. Patentees indicate that their tie layer enables "excellent adhesion," see col. 4, line 10. It is thus evident that patentees intent is to keep the peel/seal layer together, and to avoid peeling such as that in the present invention, wherein the binder layer separates from the polypropylene layer. Thus, this patent also fails to disclose the presently claimed invention. Withdrawal of this rejection is therefore also respectfully requested.

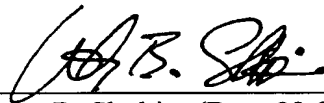
#### Rejections Under 35 U.S.C. §103

Claims 20-26 have been rejected under 35 U.S.C. §103 over Hirota et al., and claims 33-35 have been rejected under 35 U.S.C. §103 over Hirota taken with Trouilhet. Moreover, claims 33-35 have been rejected over Trouilhet taken with Hirota. The various rejections applied to these claims are structured so as to allegedly provide teachings of various sub-features of the invention. However, in view of the deficiency of all the references of record, discussed above - whether these references are taken singly, or in combination - it can be seen that the fundamental nature of the invention is simply not disclosed by the references, in any combination. Thus, it is submitted that these rejections should be withdrawn.

The claims of the application are submitted to be in condition for allowance. However, should the Examiner have any questions or comments, he or she is cordially invited to telephone the undersigned at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS:**

Please amend claims 16, 18, 20-27, 29, and 33-35 as follows:

16. (Amended) A multilayer structure comprising a metal layer or a metallized-substrate layer (5) and a ~~polypropylene-based~~ binder layer (6) comprising polypropylene, extrusion-coated at a rate of more than 100 m/min. onto the metal or metallized-substrate layer, said layers (6, 5) being made non-delaminable by heat treating the said structure to a temperature above the melting point of the binder layer (6), and a polypropylene layer (2) having a melting point above the melting point of the binder, the binder layer (6) being sandwiched between the metal layer or metallized-substrate layer (5) and the polypropylene layer (2), the heat treating being at a temperature below the melting temperature of the polypropylene layer (2), wherein said structure is peelable between binder layer (6) and polypropylene layer (2).

18. (Amended) A structure according to claim 16, wherein said structure comprises a polypropylene ~~layer~~ layers (7, 2) having a melting point above the melting point of the binder, the binder layer (6) being sandwiched between the metal layer or metallized-substrate layer (5) and the polypropylene layer (7, 2), the heat treating being at a temperature below the melting temperature of the polypropylene layer (7, 2).

20. (Amended) A structure according to claim 16, wherein the extrudable binder comprises by weight:

- 5 to 30% of a copolymer (A) based on ethylene and one or more comonomers chosen from the group consisting of carboxylic acid esters, vinyl esters and dienes;
- 40 to 93% of a stretchable polypropylene (B), stretchability being defined as the ability of a rod extruded at a temperature of between 190°C and 240°C and pulled at a pull rate of between 50 and 250 m/min. without breaking;
- 2 to 30% of a an additional polypropylene (C) functionalized by an unsaturated carboxylic acid anhydride;
- the MFI of the composition being between 10 and 50 g/10 min. (at 230°C/2.16 kg).

21. (Amended) A structure according to claim 20, wherein the copolymer (A) of the binder comprises an ethylene/alkyl (meth)acrylate copolymer containing from 5 to 40% by weight of alkyl (meth)acrylate, the MFI being between 0.5 and 200 g/10 min. (at 190°C/2.16 kg).

22. (Amended) A structure according to claim 20, wherein the copolymer (A) of the binder comprises an ethylene/alkyl (meth)acrylate/maleic anhydride copolymer containing from above 0 to 10% by weight of maleic anhydride and from 2 to 40% by weight of alkyl (meth)acrylate, the MFI being between 0.5 and 200 g/10 min. (at 190°C/2.16 kg).

23. (Amended) A structure according to claim 20, wherein the copolymer (A) of the binder is a blend of copolymers (A), of an ethylene/alkyl (meth)acrylate copolymer containing 5 to

40% by weight of alkyl (meth)acrylate, and of an ethylene/alkyl (meth)acrylate/maleic anhydride copolymer containing from above 0 to 10% by weight of maleic anhydride and from 2 to 40% by weight of alkyl (meth)acrylate.

24. (Amended) A structure according to claim 20, in which the proportion of polypropylene (C) ~~of~~ in the binder is between 1.5 and 6% by weight, said polypropylene (C) containing from 1.5 to 6% by weight of maleic anhydride.

25. (Amended) A structure according to claim 20, in which the proportion of polypropylene (C) ~~of~~ in the binder is between 10 and 25% by weight, said polypropylene (C) containing from 0.8 to 1.5% by weight of maleic anhydride.

26. (Amended) A structure according to claim 20, in which the proportion of polypropylene (C) ~~of~~ in the binder is between 3 and 5% by weight, said polypropylene (C) containing from 1.5 to 3% by weight of maleic anhydride.

27. (Amended) A cover (4) comprising a structure according to claim ~~15~~ 16, in which the metal of the metal or metallized-substrate layer (5) is aluminium.

29. A package made with a structure according to claim ~~15~~ 16.

30. A package according to claim 29, characterized in that it is sterilizable and resistant to food acids and high-performance solvents and greases.

33. (Amended) A process of producing the multi-layer structure of claim 16, comprising the step of extrusion-coating said ~~polypropylene-based~~ binder layer at a rate of more than 100 m/min. onto said metal or metallized substrate layer, and heat treating the resultant extrusion coated structure at a temperature above the melting point of the binder layer.

34. (Amended) A process of producing the multi-layer structure of claim 18, comprising the step of extrusion-coating said ~~polypropylene-based~~ binder layer at a rate of more than 100 m/min. onto said metal or metallized substrate layer, and heat treating the resultant extrusion coated structure at a temperature above the melting point of the binder layer, said heat treating being at a temperature below the melting temperature of the polypropylene layer (7, 2).

35. (Amended) A process of producing the multi-layer structure of claim 20, comprising the step of extrusion-coating said ~~polypropylene-based~~ binder layer at a rate of more than 100 m/min. onto said metal or metallized substrate layer, and heat treating the resultant extrusion coated structure at a temperature above the melting point of the binder layer.